

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

B.A. KELLY LAND CO., LLC

CIVIL ACTION NO. 5:18-CV-01243

VERSUS

JUDGE TERRY A. DOUGHTY

AETHON ENERGY OPERATING, LLC

MAG. JUDGE KAREN L. HAYES

**MOTION FOR RECONSIDERATION OF DENIAL
OF B.A. KELLY'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

NOW INTO COURT, through undersigned counsel, comes plaintiff, B.A. Kelly Land Co., LLC (“BAK”), who herein moves this court, pursuant to FRCP Rule 54(b), for reconsideration of this court’s ruling denying plaintiff’s motion for partial summary judgment [Doc. 28] (hereinafter referred to as “the Ruling”) on the issue of well cost forfeiture under La. R.S. 30:103.1 and 30:103.2. The Ruling is an interlocutory order, and BAK seeks reconsideration of it, as, respectfully, it is premised upon an error of law, namely the misapplication of the rule of “strict construction.” Specifically, while “strictly construing” the penal statute at issue, the court erroneously “read into” the statute a requirement that written notice under La. 103.2 must cite the actual statute, even though the literal text of the notice statute contains no such provision. Said another way, the Ruling compels notice content that the statute itself does not.

Furthermore, the Ruling will result in manifest injustice to all unleased mineral interest owners, particularly those who are not represented by counsel, who seek to obtain reporting information required by statute from operators, thereby imposing a practically unachievable burden of placing an oil and gas operator in default of its reporting obligations.

WHEREFORE, based upon these grounds, as well as those set forth in the memorandum filed in support of this motion, BAK respectfully requests reconsideration of the Ruling, and that, after due proceedings are had, the Ruling is amended to GRANT BAK's motion for partial summary judgment, declaring that any rights defendant may have had to charge costs to BAK's well revenue have been forfeited by law.

Respectfully submitted,

COLVIN SMITH MCKAY & BAYS

By: /s/ James H. Colvin, Jr.
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Attorneys for Plaintiff, B.A. Kelly Land Co., LLC

CERTIFICATE

I HEREBY CERTIFY that a copy of the MOTION TO RECONSIDER PURSUANT TO RULE 54(B) was filed with the United States District Court for the Western District of Louisiana by electronic cases filing/case management and that a copy of same was served on opposing counsel by either electronic notification or by U.S. mail, postage pre-paid.

Shreveport, Louisiana, this 25th day of October, 2019.

/s/ James H. Colvin, Jr.
Of Counsel